



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lt. Governor

State of New Mexico
ENVIRONMENT DEPARTMENT
Environmental Health Division
DRINKING WATER BUREAU

P.O. Box 5469
Santa Fe, NM 87502
Phone (505) 476-8620 • Fax (505) 476-8656
Toll Free 1-877-654-8720

www.nmenv.state.nm.us/dwb



RYAN FLYNN
Cabinet Secretary

BUTCH TONGATE
Deputy Secretary

CERTIFIED RETURN RECEIPT REQUESTED
7005 1820 0001 5772 1787

May 2, 2014

Codra or Howard Anderson
Westwinds Mobile Home Park
105 Navajo Way
Thousand Oaks, CA 91362

RE: Administrative Compliance Order, No. 2014-ACO-03 Westwinds Mobile Home Park, PWS# NM3565508

Mr. or Mrs. Anderson:

Please find attached Administrative Compliance Order No. 2014-ACO-03 issued to Codra or Howard Anderson, for Westwinds Mobile Home Park, PWS# NM3565508, under the Environmental Improvement Act, NMSA 1978, § 74-1-10, the Drinking Water Regulations, 20.7.10 NMAC, and the Utility Operator Certification Act, NMSA 1978, § 61-33-10. Please review the Administrative Compliance Order (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Codra or Howard Anderson, has a right to answer the allegations in the Order and request a hearing, NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at www.nmenv.state.nm.us).

If you have any questions or need assistance with meeting the requirements of this Order, please contact Maria J. Medina, Enforcement Coordinator, at 505-476-8629 or via email at maria.medina@state.nm.us.

Sincerely,

Tom Blaine PE, Division Director
Environmental Health Division

cc. Brandi Garcia, Compliance Officer
Tonia Biggs, Region 6, EPA (Electronic)
P:\-ENFORCEMENT\Individual PWS Enforcement Info
Central File

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT
ENVIRONMENTAL HEALTH DIVISION,

Complainant,
v.

No. 2014-ACO-03

CODRA OR HOWARD ANDERSON,

Respondent.

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to the Environmental Improvement Act ("EIA"), NMSA 1978, § 74-1-10, the Drinking Water Regulations ("DW Regulations"), 20.7.10 NMAC and the Utility Operator Certification Act ("UOCA"), NMSA 1978 § 61-33-10, the Secretary of the New Mexico Environment Department ("NMED"), acting through the Director of the Environmental Health Division of the NMED, issues this Administrative Compliance Order ("Order") to Codra or Howard Anderson ("Respondent") to enforce the EIA, DW Regulations and UOCA.

FINDINGS

1. The NMED is an executive agency within the government of the State of New Mexico and is charged with administration and enforcement of the EIA, DW Regulations and UOCA.

2. Respondent owns and operates a public drinking water system ("System") Westwinds Mobile Home Park, PWS# NM3565508, located in Eddy County, New Mexico.

3. The System is a Community water system, as defined by Section 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.2], that regularly provides piped drinking water to approximately two hundred thirty two (232) residents and has approximately fifty eight (58) service connections to serve these residents.

4. Respondent, Codra or Howard Anderson, is a "person" as defined by the EIA, NMSA 1978, § 74-1-3, the UOCA, NMSA 1978, § 61-33-2.G, and 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.2].

5. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(a)(2)], Coliform Sampling, requires public water systems to collect routine total coliform samples.

6. On November 21, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for October 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

7. On December 20, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for November 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

8. On January 21, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for December 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

9. On February 12, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for January 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

10. On March 10, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for February 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

11. On April 14, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct routine total coliform monitoring for March 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

12. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(5)], Coliform Sampling, requires public water systems to collect at least five (5) routine total coliform samples the month following a positive result.

13. On May 16, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit five (5) routine total coliform samples for April 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

14. On August 1, 2013, Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit five (5) routine total coliform samples for June 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

15. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], establishes monitoring requirements for lead and copper in tap water.

16. On February 18, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to conduct lead and copper sampling during 2009 and 2012. The NOV notified Respondent that it was required to provide public notice of the violation.

17. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.132(c) and 40 C.F.R. § 141.132(c)(1)], defines the monitoring requirements for disinfectant residuals and requires monitoring results be submitted within ten (10) days following the quarter in which the residuals were collected.

18. On August 20, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit disinfectant residuals for second quarter of 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

19. On March 10, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit disinfectant residuals for July 2013, August 2013, October 2013, November 2013, and December 2013. The NOV notified Respondent that it was required to provide public notice of the violation.

20. On April 14, 2014, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit disinfectant residuals for first quarter of 2014. The NOV notified Respondent that it was required to provide public notice of the violation.

21. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b)], requires all community public water systems must provide a Consumer Confidence Report (CCR) to their consumers and to the State by July 1st of each year.

22. On August 20, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to submit CCR to their consumers and the State by July 1, 2013.

23. 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(5)], Ground water systems with significant deficiencies or source water fecal contamination, requires a groundwater system to either correct significant deficiencies or be in compliance with a State approved corrective action plan within 120 days of receiving written notice by the State of significant deficiency.

24. On August 20, 2013, a Notice of Violation (NOV) was issued to Respondent by NMED for failure to correct significant deficiencies identified during the November 14, 2012, Sanitary Survey within 120 days of receiving written notice of significant deficiencies. The NOV notified Respondent that it was required to provide public notice of the violation.

VIOLATION 1- Drinking Water Regulations

25. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(a)(2)], Coliform Sampling, which requires public water systems to collect routine total coliform samples. Respondent failed to collect routine samples for October 2013, November 2013, December 2013, January 2014, February 2014, and March 2014.

VIOLATION 2- Drinking Water Regulations

26. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21(b)(5)], Coliform Sampling, which requires public water systems to collect at least five (5) routine total coliform samples the month following a positive result. Respondent failed to collect at least five (5) routine total coliform samples on April 2013 and June 2013.

VIOLATION 3- Drinking Water Regulations

27. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], which establishes monitoring requirements for lead and copper in tap water. Respondent failed to collect lead and copper compliance samples during 2009 and 2012.

VIOLATION 4- Drinking Water Regulations

28. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.132(c) and 40 C.F.R. § 141.132(c)(1)], which defines the monitoring requirements for disinfectant residuals and requires monitoring results be submitted within ten (10) days following the quarter in which the residuals were collected. Respondent failed to submit disinfectant residuals for second quarter of 2013, July 2013, August 2013, October 2013, November 2013, December 2013 and first quarter of 2014.

VIOLATION 5- Drinking Water Regulations

29. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b)], which requires all community public water systems must provide a Consumer Confidence Report (CCR) to their consumers and to the State by July 1st of each year. Respondent failed to provide a CCR to their consumers and the State by July 1, 2013.

VIOLATION 6- Drinking Water Regulations

30. Respondent is in violation of 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(5)], Ground water systems with significant deficiencies or source water fecal contamination, which requires a groundwater system to either correct significant deficiencies or be in compliance with a State approved corrective action plan within 120 days of receiving written notice by the State of significant deficiency. Respondent failed to correct significant deficiencies identified during the November 14, 2012, Sanitary Survey within 120 days of receiving written notice by the State.

RETURN TO COMPLIANCE

Drinking Water Regulations

Based upon the foregoing, Respondent is hereby ordered to comply with the following:

31. Upon receipt of this Order, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.21], and collect five (5) monthly routine total coliform samples and submit the samples results to NMED DWB by the 10th day of the month following receipt of this Order.

32. By September 30, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.86], and collect lead and copper compliance samples.

33. By July 10, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.132(c) and 40 C.F.R. § 141.132(c)(1)], and submit disinfectant residual monitoring results to NMED DWB within 10 days following the quarter in which the residuals were collected.

34. By July 1, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.152(b)], and provide a CCR to their consumers and the State.

35. By June 30, 2014, comply with 20.7.10.100 NMAC, [incorporating 40 C.F.R. § 141.403(a)(5)], and correct significant deficiencies identified during the November 14, 2012, Sanitary Survey.

36. Submittals made pursuant to paragraphs 31 through 35 shall be sent by standard U.S. mail or certified mail with return receipt requested to the following:

Maria J. Medina, Enforcement Coordinator
New Mexico Environment Department
Drinking Water Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

If respondent fails to comply with the requirements of paragraphs 31 through 36 of this order, the Secretary of NMED may assess additional civil penalties not to exceed one thousand dollars (\$1,000) for each instance of noncompliance with this order.

VIOLATION 7- Utility Operator Certification Act

37. Respondent is in violation of the UOCA, NMSA 1978, § 61-33-6, 20.7.4.20.A NMAC, and 20.7.10.400.M NMAC (incorporating NMSA 1978, § 61-33-6 and 20.7.4.A NMAC). NMSA 1978, § 61-33-6 and 20.7.4.A NMAC provide that, "It is unlawful to operate or allow the operation of a public water supply system or public wastewater facility unless the system or facility is operated by or under the supervision of a certified operator who meets or exceeds the appropriate level of certification required to operate the system or facility." Respondent is operating the System without a certified operator despite having received written notification by the NMED on August 20, 2013 and by the Surface Water Quality Bureau (SWQB) on March 21, 2014 that a certified operator was required.

RETURN TO COMPLIANCE

Utility Operator Certification Act

Based upon the foregoing findings, Respondent is hereby ordered to comply with the following:

38. Within thirty (30) days of receipt of this Order, Westwinds Mobile Home Park public water system shall at all times be operated by or under the supervision of a certified operator

who meets or exceeds the appropriate level of certification required to operate the System in accordance with the UOCA, NMSA 1978, § 61-33-6, 20.7.4.20.A NMAC, and 20.7.10.400.M NMAC. Respondent shall submit a written notification of that person's name and a copy of the certified operator's certification to the NMED.

39. Submittals made pursuant to paragraph 38 shall be sent by standard U.S. mail or certified mail with return receipt requested to the following:

Anne Keller, Environmental Specialist
New Mexico Environment Department
Surface Water Quality Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

Maria J. Medina, Enforcement Coordinator
New Mexico Environment Department
Drinking Water Bureau
P.O. Box 5469
Santa Fe, NM 87502-5469

If respondent fails to comply with the requirements of paragraphs 38 through 39 of this order, the Secretary of NMED may assess additional civil penalties not to exceed five thousand dollars (\$5,000) per day for each day of continued noncompliance with this order.

RIGHT TO ANSWER AND REQUEST A HEARING

Pursuant to NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at www.nmenv.state.nm.us), Respondent has the right to request a hearing. If Respondent (a) contests any material or legal matters upon which this Order is based; (b) contends that Respondent is entitled to prevail as a matter of law; or (c) otherwise contests the appropriateness

of this Order, Respondent may mail or deliver within thirty (30) days of receipt of this Order a written Request for Hearing at the following address:

Hearing Clerk
New Mexico Environment Department
P.O. Box 5469
Santa Fe, New Mexico 87502

Respondent must attach a copy of this Order to the Request for Hearing. 20.1.5.200.A(2)(d) NMAC.

The Request for Hearing shall include an Answer. Respondent's Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Order with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, Respondent should so state, and the Respondent may deny the allegation on that basis. Any allegation in this Order not specifically denied shall be deemed admitted. 20.1.5.200.A(2)(a) NMAC.

Respondent's Answer shall also include any affirmative defenses upon which Respondent intends to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived. 20.1.5.200.A(2)(b) NMAC.

Respondent's Answer shall be signed under oath or affirmation that the information contained therein is to the best of the signer's knowledge believed to be true and correct. 20.1.5.200.A(2)(c) NMAC.

FINALITY OF ORDER

Pursuant to NMSA 1978, §§ 61-33-10.E and § 74-1-10.E, this Order shall become final unless the Respondent files a Request for Hearing with the Hearing Clerk within thirty (30) days of receipt of this Order.

SETTLEMENT CONFERENCE

Whether or not a Request for Hearing has been filed, Respondent may confer with the NMED concerning settlement of this Order. The NMED encourages settlement consistent with the provisions and objectives of the EIA, the DW Regulations and the UOCA. Settlement

discussions neither extend the thirty (30) day deadline for filing a Request for Hearing and Answer nor alter the deadline imposed for compliance with the mandate of this Order. Settlement discussion may be pursued as an alternative to, and simultaneously with, the hearing proceedings. Respondent may appear at the settlement conference alone or accompanied or represented by legal counsel.

A Stipulated Final Order shall finalize any settlement reached by the parties. The Stipulated Final Order must resolve all issues raised in this Order, shall be final and binding on all parties, and may not be appealed.

To explore the possibility of settlement in this matter, contact Maria J. Medina, New Mexico Environment Department, Drinking Water Bureau, P.O. Box 5469, Santa Fe, New Mexico 87502-5469, (505) 476-8629.

COMPLIANCE WITH OTHER LAWS

Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations. This Order does not constitute a waiver, suspension, or modification of the requirements of 20.7.10 NMAC and 20.7.4 NMAC which remain in full force and effect. Issuance of this Order is not an election by the NMED to forgo any civil or criminal action otherwise authorized under the EIA.

TERMINATION

This Order shall terminate when Respondent certifies that all requirements of this Order have been met and the NMED has approved such certification in writing, or when the Secretary approves a Stipulated Final Order.



Tom Blaine PE
Division Director
Environmental Health Division
Harold L. Runnels Building
1190 St. Francis Drive
Santa Fe, New Mexico 87502

5/8/14

Date

Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on 5/20, 2014 via certified return receipt requested to the following:

Codra or Howard Anderson
Westwinds Mobile Home Park
105 Navajo Way
Thousand Oaks, CA 91362



Maria J. Medina